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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE COMMISSION.

Plaintiff,

v.

ANDREW LEFT and CITRON
CAPITAL, LLC

Defendants.

Case No. 2:24-cv-6311-SPG-JC

DEFENDANTS' OPPOSITION TO THE DEPARTMENT OF JUSTICE'S MOTION TO INTERVENE AND TO STAY THE SEC CASE

**REDACTED VERSION OF
DOCUMENT PROPOSED TO BE
FILED UNDER SEAL.**

Date: August 13, 2025
Time: 1:30 p.m.
Crm: 5C
Judge: Hon. Sherilyn Peace Garnett

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INTRODUCTION

Defendants Andrew Left and Citron Capital, LLC (together, “Mr. Left”) respectfully submit this memorandum of law in opposition of the Department of Justice’s (“DOJ”) motion to intervene and stay discovery. The Court should reject DOJ’s request to intervene. DOJ cannot intervene as of right, and DOJ provides no specific reasons why its intervention should be permitted. Moreover, even if the Court permits DOJ to intervene, it should reject DOJ’s request for a blanket stay. Under Ninth Circuit law, the proponent of the stay request bears the burden of showing that a stay is necessary in the interests of justice. The principal factor in the interests-of-justice analysis is whether the absence of a stay will cause “substantial prejudice” to a party to the civil proceeding. Here, DOJ fails to articulate how allowing this matter to proceed in the normal course will cause *any* prejudice to a party, let alone “substantial prejudice,” given that Mr. Left has not and does not intend to invoke his Fifth Amendment rights in response to any discovery requests he may receive from the SEC. DOJ likewise fails to show that any of the other interests-of-justice factors favor a blanket stay.

The SEC elected to sue Mr. Left—not the other way around. The pendency of the SEC’s lawsuit significantly impairs Mr. Left’s personal and professional life. Mr. Left has a constitutional right to defend himself against the SEC’s charges. If the Court were to grant DOJ’s request for a stay, Mr. Left’s ability to obtain exoneration on the SEC’s charges would be unnecessarily and unfairly delayed. DOJ has failed to carry its high burden to demonstrate the necessity of a stay.

RELEVANT FACTUAL BACKGROUND

The SEC began investigating Mr. Left no later than [REDACTED]. See Ex. A [access request letter]. Originally, the SEC's investigation of Mr. Left was part of an industry-

1 wide “probe look[ing] at almost 30 short-selling firms and allies,”¹ targeting “a
2 veritable who’s who of the short-selling world.”² See also Ex. B [SEC list of
3 ██████████]. The investigation was seeking to determine whether short-sellers
4 were engaged in coordinated “short and distort” schemes, whereby short-sellers
5 would collude with one another to inject into the market false negative information
6 about companies and then profit from the drop in those companies’ stock prices. See
7 Ex. A [SEC referring to investigation as ██████████].

8 The SEC launched its investigation in part to investigate an infamous short-
9 and-distort campaign initiated by Quinton Mathews against Farmland Partners
10 (“Farmland”) in 2018.³ Using the pseudonym “Rota Fortunae,” Mathews published a
11 short report claiming that Farmland was at risk of insolvency.⁴ Mathews’s short
12 report, which he released on the investment website Seeking Alpha and on Twitter,
13 caused Farmland’s share price to drop 39% in a single day, destroying tens of millions
14 of dollars in shareholder value. Mathews had amassed a substantial short position
15 prior to releasing his report, and he covered his entire position a few hours after he
16
17

18 ¹ Katia Porzecanski & Tom Schoenberg, *Vast DOJ Probe Looks at Almost 30*
19 *Short-Selling Firms and Allies*, BLOOMBERG (Feb. 4, 2022),
20 <https://www.bloomberg.com/news/articles/2022-02-04/vast-doj-probe-looks-at-almost-30-short-selling-firms-and-allies>.

21 ² Sam Klebanov, *The Big Short Seller Probe: Who Are the Investors on the DOJ’s List?*, THE BUSINESS OF BUSINESS (Mar. 3, 2022),
22 <https://www.businessofbusiness.com/articles/the-big-short-seller-probe-who-are-the-investors-on-the-doj-s-list/>.

23 ³ See Justin Baer, *Short Sellers Upended a Small Farm-Real-Estate Company. This Is What It Looked Like.*, WALL ST. J. (Sept. 25, 2022),
24 <https://www.wsj.com/articles/short-sellers-upended-a-small-farm-real-estate-company-this-is-what-it-looked-like-11664076506>.

25 ⁴ *Id.*

1 released the report.⁵ A shareholder lawsuit against Mathews followed. Mathews
2 settled the lawsuit, admitting that his report “contained inaccuracies and false
3 allegations based on those inaccuracies.”⁶ Other than Mathews’s fraudulent short
4 attack on Farmland, however, the SEC’s investigation did not find a single short-and-
5 distort scheme, either by Mr. Left or any other short seller. And the SEC’s
6 investigation failed to find any evidence of unlawful collusion between short sellers.

7 In early 2021, the SEC changed the focus of its investigation of Mr. Left,
8 presumably because the SEC realized that Mr. Left had not, in fact, engaged in any
9 short-and-distort schemes, either in concert with other short-sellers or on his own. On
10 February 1, 2021, the SEC issued Mr. Left a subpoena seeking [REDACTED]

11 [REDACTED] and [REDACTED]
12 [REDACTED] *See Ex. C [2021 SEC*
13 subpoena].⁷ The scope of the SEC’s subpoena effectively commanded Mr. Left to
14 produce every document or communication that he ever created or received
15 concerning his entire involvement with the financial markets. On March 15, 2023, the
16 SEC sent Mr. Left a second subpoena. *See Ex. D [2023 subpoena].* This subpoena
17 sought [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]. In response to the subpoenas, Mr. Left made seven productions to the SEC
21 totaling nearly 100,000 pages. Mr. Left also made numerous additional productions

23 ⁵ *Id.*

24 ⁶ Rota Fortunae’s Blog, “Mathews Settlement Press Release,” SEEKING ALPHA
25 (June 20, 2021), <https://seekingalpha.com/instablog/47800059-rota-fortunae/5605955-mathews-settlement-press-release>.

26 ⁷ The SEC actually sent him three subpoenas at that time: one to him personally,
27 one to Citron Capital, and one to Citron Research. *See Ex. E [production letter].*

1 to DOJ, which issued grand jury subpoenas to him. The SEC and DOJ also collected
2 millions of documents from third parties, via subpoenas and search warrants.

3 On August 25, 2023, the SEC issued Mr. Left a testimonial subpoena. Mr. Left
4 welcomed the opportunity to explain his side of the story. Beginning in October 2023,
5 the SEC conducted a three-day deposition of Mr. Left. Mr. Left answered every
6 question the SEC's attorneys asked him, and he did not once invoke his Fifth
7 Amendment right against self-incrimination. In addition to obtaining testimony from
8 Mr. Left, the SEC took on-the-record testimony from nearly 10 other witnesses, and
9 DOJ conducted dozens of unsworn interviews of potential witnesses and sources of
10 information.

11 On July 25, 2024, a federal grand jury indicted Mr. Left, charging him with one
12 count of securities fraud under 18 U.S.C. § 1348 and 17 counts of securities fraud
13 under 15 U.S.C. §§ 78j(b) and 78ff. To be sure, the SEC's complaint overlaps
14 significantly with the DOJ's indictment. Both are predicated on the same theory of
15 fraud—that the opinions Mr. Left expressed on Twitter and in Citron's reports were
16 not sincerely held, as demonstrated by the fact that Mr. Left either reduced or closed
17 his positions in the stocks at issue (which include macro-cap stocks such as Nvidia,
18 Tesla, and Facebook/Meta) shortly after publicly speaking. But the SEC's complaint
19 includes a number of additional tickers—*see, e.g.*, VUZI, INO, and VEEV—that are
20 not charged in the criminal indictment.

21 Neither the SEC nor DOJ has charged Mr. Left with making any false
22 statements of fact about a company. Indeed, the majority of Mr. Left's publicly
23 expressed opinions that the SEC and DOJ have charged as fraudulent were both
24 incredibly accurate and incredibly prescient. For example, on November 20, 2018,
25 Mr. Left opined on Twitter that Nvidia—which had just experienced a significant
26 decline in share price—was grossly undervalued. If an investor had purchased
27 \$10,000 in Nvidia stock that day and held, that investor presently would be sitting on
28

1 over \$400,000.

2 Notably, just months after the SEC charged Mr. Left, the SEC Investment
3 Advisory Committee’s Disclosure Subcommittee issued recommendations
4 concerning the regulation of “finfluencers” (financial influencers) under existing
5 laws. *See Ex. F.* The Committee concluded that:

6 regulators have difficulty in applying these laws in a situation in which
7 the finfluencer simply discloses security holdings in a company and
easily profits off their followers predictable trading behavior. In such
8 situations, *there is arguably no fraud . . .*

9 This is, at most, what the SEC has alleged here. The SEC’s claim is merely that Mr.
10 Left profited off his followers’ decisions to follow Mr. Left’s stock recommendations.
11 Mr. Left, of course, was not the only one who profited—his followers did as well.

12 Although the SEC has not yet begun producing discovery in this case, DOJ has
13 produced extensive discovery in the parallel criminal case. DOJ has produced more
14 than a million records, a significant portion of which DOJ obtained via the SEC’s
15 sharing of the materials that the SEC obtained via its administrative subpoenas.

16 **LEGAL STANDARDS**

17 **A. DOJ’s motion to intervene**

18 A nonparty is entitled as of right to intervene in a case under Federal Rule of
19 Civil Procedure 24(a) if either a federal statute provides an unconditional right to
20 intervene or the nonparty “claims an interest relating to the property or transaction
21 that is the subject of the action, and is so situated that disposing of the action may as
22 a practical matter impair or impede the movant’s ability to protect its interest . . .” If
23 a nonparty is not entitled to intervene under Rule 24(a), the court may permit the
24 nonparty to intervene under Rule 24(b) if the nonparty has a “claim or defense that
25 shares with the main action a common question of law or fact.”

26 **B. DOJ’s motion to stay**

27 When parallel civil and criminal proceedings are pending at the same time, a

1 stay of the civil proceeding is the exception rather than the rule. As the Ninth Circuit
2 has made clear, “[i]n the absence of substantial prejudice to the rights of the parties
3 involved, [simultaneous] parallel [civil and criminal] proceedings are
4 unobjectionable . . .” *Keating v. Office of Thrift Supervision*, 45 F.3d 322, 324 (9th
5 Cir. 1995). When considering whether to stay a particular case, the Ninth Circuit has
6 held that the “extent to which the defendant’s fifth amendment rights are implicated
7 is of paramount importance.” *Id.* at 324 (citation omitted). In addition, courts should
8 “generally consider” the following additional factors:

9 (1) the interest of the plaintiffs in proceeding expeditiously with this
10 litigation or any particular aspect of it, and the potential prejudice to
11 plaintiffs of a delay; (2) the burden which any particular aspect of the
12 proceedings may impose on defendants; (3) the convenience of the court
13 in the management of its cases, and the efficient use of judicial resources;
14 (4) the interests of persons not parties to the civil litigation; and (5) the
15 interest of the public in the pending civil and criminal litigation.

16 *Id.* at 324–25. The proponent of the stay has the burden of demonstrating that a stay
17 is warranted pending resolution of a criminal proceeding. See *SEC v. ARVCO Rsch.*,
18 No. 3:12-cv-00221-MMD-WGC, 2013 WL 3779338, *6 (D. Nev. Jul. 16, 2023).

19 As the *Keating* factors imply, it typically is *the defendant*—not DOJ—seeking
20 to stay a parallel civil case. Courts treat with “disfavor . . . the Government’s request
21 for a stay when a branch of the Government . . . has brought the civil lawsuit that a
22 U.S. Attorney’s office is then seeking to stay.” *SEC v. Mazzo*, No. SACV 12-1327-
23 DOC(ANx), 2013 WL 812503, at *2 n.3 (C.D. Cal. Feb. 25, 2013) (denying request
24 for a stay by the government without a “more specific request” that would allow the
25 court to perform the “case-specific analysis required for a thoughtful decision”). In
26 fact, the “vast majority of cases hold that such a stay is improper absent a showing of
27 prejudice that cannot be remedied by anything other than a complete stay of the civil
28 proceeding.” *SEC v. Balwani*, No. 5:18-cv-01603-EJD, 2019 WL 2491963, at *2
29 (N.D. Cal. 2019) (quoting *SEC v. Fraser*, No. CV-09-00443-PHX-GMS, 2009 WL
30 24-CV-06311-SPG-JC
OPPOSITION TO MOTION TO INTERVENE AND STAY

1 1531854, at *3 (D. Ariz. June 1, 2009)); *see also SEC v. O'Neill*, 98 F. Supp. 3d 219,
2 221–22 (D. Mass. 2015) (“[E]xposing the government’s case or testing witness
3 recollections . . . are the risks that the government and the SEC run when they elect
4 to pursue parallel investigations and prosecutions.”); *Mazzo*, 2013 WL 812503, at
5 *2; *SEC v. Kanodia*, 153 F. Supp. 3d 478, 481–82 (D. Mass. 2015) (citing *SEC v.*
6 *Cioffi*, No. 08-CV-2457 (FB)(VVP), 2008 WL 4693320, at *1 (E.D.N.Y. Oct. 23,
7 2008) (“Courts are justifiably skeptical of blanket claims of prejudice by the
8 government where—as here—the government is responsible for the simultaneous
9 proceedings in the first place.”)).

10 Put simply, “the government cannot elect to bring parallel civil and criminal
11 proceedings and then complain about the effects.” *Kanodia*, 153 F. Supp. 3d at 482;
12 *see also O'Neill*, 98 F. Supp. 3d at 221; *SEC v. Sandifur*, No. C05-1631 C, 2006 WL
13 3692611, at *2 (W.D. Wash. Dec. 11, 2006) (“Although courts have been receptive
14 to Government stay requests in civil cases brought by parties other than the
15 Government[,] [c]ourts regularly deny stays when civil regulators have worked
16 directly in concert with the criminal prosecutors during the investigation.”).

17 **ARGUMENT**

18 **I. DOJ’s motion to intervene should be denied.**

19 DOJ asserts that it is entitled to intervention as of right because it has a “distinct
20 and discernable interest in intervening in order prevent discovery in the civil case
21 from being used to circumvent the more limited scope of discovery in the criminal
22 matter.” Dkt. 41 at 6. This supposed “interest” is not one recognized by Rule 24(a).
23 DOJ, moreover, does not cite a single case where DOJ was permitted to intervene as
24 of right in a parallel SEC case. *See, e.g., SEC v. Holcom*, No. 12-CV-1623-H (JMA),
25 2013 WL 12073831, at *2 (S.D. Cal. Sept. 6, 2013) (denying request to intervene as
26 of right but permitting permissive intervention). Further, intervention as of right
27 would be particularly inappropriate where DOJ’s motion consists of generic

1 conclusions about harm from civil discovery. *See SEC v. Rampoldi*, 16-cv-2017-
2 MMA(DHB), 2016 WL 11621801, *1 (S.D. Cal. 2016) (merely describing a
3 “generalized interest” in “preventing” the criminal defendants from obtaining civil
4 discovery “is insufficient to warrant intervention of right pursuant to Rule 24(a)”).

5 Although DOJ is often granted permission to intervene for the limited purpose
6 of moving to stay an SEC case, *Holcom*, 2013 WL 12073831 at *2, courts have
7 likewise rejected DOJ attempts to intervene when DOJ fails to provide any detail as
8 “for what purposes the United States wishes to intervene.” *Rampoldi*, 2016 WL
9 11621801, at *1. As in *Rampoldi*, DOJ here offers virtually no reasoning for its
10 request to intervene, stating only that there “are common questions of law and fact
11 between this case and the criminal case because the same alleged fraud scheme forms
12 the basis of both actions.” *Id.* at 7. That may be true, but such generalized platitudes
13 fail to demonstrate a compelling reason to permit DOJ to intervene in a case being
14 prosecuted by a sister agency.

15 Because DOJ has offered nothing *specific* in its motion to justify intervention,
16 its request to intervene should be denied.

17 **II. DOJ’s motion to stay this case should be denied.**

18 **A. DOJ has failed to demonstrate that it will be “substantially
19 prejudiced” in the absence of a stay.**

20 In *Keating*, the Ninth Circuit held that parallel proceedings are
21 “unobjectionable” in the “absence of substantial prejudice.” 45 F.3d at 324. Here,
22 DOJ does not demonstrate that the government will be prejudiced, let alone
23 substantially prejudiced, if this case is allowed to continue in the normal course. That
24 is because no prejudice will occur.

25 First, even assuming civil discovery will enable Mr. Left to obtain some
26 discovery that he might not be able to obtain in the parallel criminal matter, DOJ does
27 not explain how that constitutes “substantial prejudice” within the meaning of

1 *Keating*. DOJ does not assert a concern that civil discovery will allow Mr. Left to
2 manipulate or harass witnesses that DOJ might call in the criminal case; instead,
3 DOJ's concern seems merely to be that access to civil discovery will help Mr. Left
4 expose all the egregious factual errors in DOJ's criminal charges. A criminal trial,
5 however, is supposed to be a search for truth. Thus, even if access to civil discovery
6 might aid the search for truth in the criminal case, that merely demonstrates that the
7 stay DOJ is requesting is *contrary* to the interests of justice. *See Rampoldi*, 2016 WL
8 11621801, at *2–3 (holding that “a blanket stay of all proceedings for an
9 indeterminate amount of time” would not be in the “interests of justice,” and rejecting
10 criminal prosecutors’ generalized assertion that allowing civil discovery to proceed
11 while the parallel criminal case was pending “would be problematic”).

12 Second, it is far from clear that civil discovery in this case will enable Mr. Left
13 to obtain discovery that is both relevant to the criminal matter and not already
14 disclosed by DOJ as part of criminal discovery. DOJ already has produced to Mr.
15 Left’s criminal defense team the vast majority of the SEC’s documents related to this
16 case. DOJ also has provided interview reports for dozens of potential trial witnesses.
17 This probably is why DOJ’s motion does not specifically describe what evidence Mr.
18 Left might be able to obtain in civil discovery that he has not already received from
19 DOJ as part of criminal discovery. Instead, DOJ’s assertions are completely generic
20 and conclusory. *See* Dkt. 41 at 9–10.

21 DOJ’s general assertions of discovery-related “prejudice” are similar to ones
22 that courts in the Ninth Circuit, including courts in this District, previously have
23 rejected. In *SEC v. Mazzo*, for example, where the defendant was charged with
24 criminal and civil securities fraud in parallel actions, criminal prosecutors from the
25 U.S. Attorney’s Office asked the court to “stay any depositions” in the SEC
26 proceeding until the conclusion of the criminal trial. 2013 WL 812503, at *1. Judge
27 Carter denied the request, rejecting the criminal prosecutors’ argument that “a

1 criminal defendant should not be able to use civil discovery to get broader discovery
2 than is available under the Federal Rules of Criminal Procedure.” *Id.* at *2. Judge
3 Carter held that the criminal prosecutors’ “broad claims of possible abuse” of civil
4 discovery were “not sufficient to support a stay” or “to deny [the defendants] one of
5 the means by which they can defend themselves in this civil case.” *Id.* Similarly, in
6 *SEC v. ARVCO Capital Research*, the district court held that the government’s parallel
7 criminal prosecution would not “suffer prejudice” under *Keating* merely because, in
8 the absence of a stay, the defendants in the civil proceeding would be able to “take a
9 few remaining percipient witness depositions.” 2013 WL 3779338, at *9 (D. Nev.
10 2013).

11 DOJ principally relies on *SEC v. Nicholas*, 569 F. Supp. 2d 1065, 1069–72
12 (C.D. Cal. 2008), for its argument that permitting Mr. Left to engage in civil discovery
13 would be prejudicial to DOJ’s prosecution of its criminal charges. DOJ, however,
14 ignores the court’s actual analysis in *Nicholas*. The court in *Nicholas* explained that
15 the Federal Rules of Criminal Procedure’s discovery process is “purposefully limited
16 so as to prevent perjury and manufactured evidence, to protect potential witnesses
17 from harassment and intimidation, and to level the playing field between the
18 government and the defendant, who would be shielded from certain discovery by the
19 Fifth Amendment.” *Id.* at 1071–72. Here, DOJ does not—and cannot plausibly—
20 articulate a concern that Mr. Left would use the civil discovery process to suborn
21 perjury, manufacture evidence, or harass or intimidate witnesses. And, because Mr.
22 Left has not and will not invoke his Fifth Amendment rights in response to any valid
23 discovery request (either in the civil case or the criminal case), any concerns about an
24 unequal discovery “playing field” are not well founded.

25 **B. A stay would substantially prejudice Mr. Left’s rights.**

26 Typically, it is the *defendant* who seeks a stay of the parallel civil matter so that
27 the defendant is not faced with the Hobson’s choice of sitting for a civil deposition or
28

1 invoking his Fifth Amendment rights and being subjected to an adverse inference
2 instruction. *See, e.g., SEC v. Horwitz*, No. 2:21-cv-02927-CAS-GJSx, 2021 WL
3 2942231, *3–4 (C.D. Cal. 2021) (citing cases and explaining that the “strongest case
4 for deferring civil proceedings” until after completion of a parallel criminal case is
5 when a defendant’s Fifth Amendment rights are implicated). Here, that is not an issue.
6 The SEC already deposed Mr. Left for three days, with Mr. Left answering every
7 question put to him. If the SEC requests the opportunity to depose Mr. Left again, Mr.
8 Left intends to answer every question put to him at that second deposition. *Cf. SEC v.*
9 *Chen*, CV 15-07425 RGK (JPRx), 2016 WL 7444922, *2 (C.D. Cal. Apr. 8, 2016)
10 (holding that the justification for a stay is “far weaker” when “no Fifth Amendment
11 privilege is threatened.”).

12 Mr. Left wants to obtain exoneration as soon as possible. A stay of this matter
13 will substantially prejudice this fundamental interest. DOJ asserts that a stay will not
14 last very long because the criminal trial is just “months away,” following which “civil
15 discovery can proceed unimpeded.” Dkt. 41 at 10. But Mr. Left’s criminal trial is
16 scheduled to start in March 2026—*nine* months from now. Trial will likely last several
17 weeks, meaning that the stay DOJ requests will last for nearly ten months at a
18 minimum. This is not an inconsequential amount of time, particularly given that the
19 events at issue in the SEC’s complaint occurred more than seven years ago. The
20 memories of potentially material witnesses already have begun to fade, and those
21 memories will fade even more over the next ten months.

22 Concerns about material witnesses’ fading memories are not abstract—they are
23 confirmed by discovery that Mr. Left recently received. Important witnesses who
24 testified in SEC depositions could not recall key details that concern allegations in the
25 complaint and the Indictment. As just one example, the SEC alleges that in May 2019,
26 Mr. Left committed securities fraud by tweeting that Beyond Meat, whose stock was
27 trading for over \$90 per share after having IPO’d just weeks earlier at \$25 a share,

1 was overvalued. Dkt. 1, ¶¶ 118–24. Mr. Left’s opinion was prescient—Beyond Meat
2 is on the precipice of bankruptcy, and its stock is presently trading for less than \$5.
3 The SEC, however, has charged that Mr. Left’s tweet was fraudulent because,
4 according to the SEC, Mr. Left’s opinion was not sincerely held. It turns out that ■■■■■

6 [REDACTED] See Ex. G [disclosure letter]. [REDACTED]

10 [REDACTED] this is critical exculpatory
11 evidence. DOJ recently attempted to interview [REDACTED]

16 [REDACTED] These events occurred just months ago. Any stay of discovery will only
17 further exacerbate the fading memories of [REDACTED].⁸

C. The SEC has not joined DOJ's motion, and a stay would undermine the SEC's interests.

Given that Mr. Left has not and will not invoke his Fifth Amendment rights in response to any of the SEC’s discovery requests, a stay would not benefit the SEC in any material way. To the contrary, a stay would undermine the SEC’s “strong interest in proceeding expeditiously” *SEC v. SHE Beverage Co., Inc.*, No. 2:21-cv-73399-CAS (ASx), 2022 WL 17968832, *3–4 (C.D. Cal. Dec. 22, 2022) (citation omitted)

25 ⁸ It is unclear what DOJ means when they argue that Mr. Left has waived “any
26 claim that such parallel proceedings are unduly burdensome.” Dkt. 41 at 8. Mr. Left
27 is not claiming that he is being unduly burdened. Rather, his claim is the opposite—
that he will be prejudiced if the SEC case is stayed.

1 (denying stay because the “SEC has an interest in expeditious prosecution of the civil
2 matter”); *Chen*, 2016 WL 7444922, *2 (same).⁹ Tellingly, the SEC has not joined
3 DOJ’s request for a stay.

D. A stay will not conserve “judicial resources.”

5 DOJ claims that a stay of the SEC's case will promote the "efficient use of
6 judicial resources." This is highly unlikely.

7 First, the SEC’s complaint includes several stocks that are not at issue in DOJ’s
8 criminal case. Thus, even if Mr. Left were convicted in the criminal case and the
9 conviction upheld on appeal, the collateral estoppel effect of a conviction would not
10 be conclusive of the SEC’s entire complaint.

11 *Second*, Mr. Left is very unlikely to be convicted in the criminal case. DOJ's
12 novel charges against Mr. Left are both factually unsupported and legally suspect.
13 Even if DOJ is able to convince a jury that Mr. Left committed securities fraud when
14 he tweeted factually accurate and prescient opinions about stocks such as Nvidia,
15 Facebook, General Electric, and Tesla—opinions that, if followed, would have netted
16 an investor massive returns far outpacing the S&P 500—such a jury verdict would be
17 dead on arrival in the court of appeals.

E. A stay is not in the public's interest.

19 The SEC’s complaint against Mr. Left is predicated on a novel theory of fraud
20 that potentially impacts every person who exercises his or her First Amendment right
21 to speak publicly—whether via research reports, 140-character Twitter posts, or other

²² ⁹ DOJ’s citation to *SEC v. Christian Stanley, Inc.*, No. CV 11-7147 GHK, 2012
23 WL 13009158, at *4 (C.D. Cal. 2012) is misplaced. The quote chosen by the DOJ—
24 “Where a party seeks to *intervene* solely for the purpose of requesting a stay in the
proceedings, the prejudice of intervention on the original parties is minimal”—refers
25 to the short, nonprejudicial delay that consideration of a stay motion causes, not the
prejudicial delay that will be caused by a stay itself. *See id.* (“The only consequence
26 of such intervention is that it allows us to entertain the motion to stay, which neither
unduly delays the proceedings nor imposes unfair prejudice on the parties.”).
27

1 social media sites—about stocks. There are no statutes, regulations, or even informal
2 agency guidance that tell a “finfluencer” how long he or she must hold a position after
3 publicly opining about the stock at issue, lest he or she be accused of fraud for
4 conveying an opinion that was not “sincerely held.” The SEC essentially is regulating
5 through this enforcement action. Delaying this civil proceeding by ten months (and
6 potentially more) means delaying the resolution of this important regulatory question.

7 **CONCLUSION**

8 For all these reasons, the DOJ’s motion to stay the SEC’s case should be denied.
9

10 Dated: July 24, 2025

Respectfully submitted,

11 DYNAMIS LLP

12 /s/ Eric S. Rosen

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1 **CERTIFICATE OF SERVICE AND COMPLIANCE**

2 No. 2:24-cv-6311-SPG-JC

3 I certify that on July 24, 2025, I served a redacted copy of this document on the
4 Court and all parties by filing this document with the Clerk of the Court through the
5 CM/ECF system, which will provide electronic notice and an electronic link to this
6 document to all counsel of record.

7 I further certify, as counsel for Defendants Andrew Left and Citron Capital,
8 LLC, that this memorandum of points and authorities contains 4,429 words, which
9 complies with the word limit of L.R. 11-6.1.

10 Dated: July 24, 2025

11 Respectfully submitted,

12 DYNAMIS LLP

13 */s/ Yusef Al-Jarani*

14 Yusef Al-Jarani